

Motor Vehicle Fuel Users:

Do You Owe Use Tax?

When a refund of Wisconsin motor vehicle fuel tax is issued to you, your purchase of the fuel may be subject to Wisconsin use tax.

I. INTRODUCTION

This publication will help determine if you are required to pay use tax on your purchase of motor vehicle fuel as a result of Wisconsin motor vehicle fuel tax being refunded to you.

When you receive a refund of Wisconsin motor vehicle fuel tax, your purchase of the fuel is subject to Wisconsin use tax unless an exemption applies. Part II includes examples of fuel purchases subject to Wisconsin use tax. Examples of fuel purchases exempt from Wisconsin use tax are in Part III.

If the fuel is subject to Wisconsin use tax, a county and/or stadium use tax is also due if the fuel is used, consumed, or stored in a county which has a county and/or stadium sales and use tax, with the following exception: If fuel was purchased (that is, possession was transferred to the buyer) in a Wisconsin county with no county or stadium tax, even though the fuel is later stored, used, or consumed in a county with the tax, it is not subject to the county or stadium use tax.

II. FUEL PURCHASES SUBJECT TO WISCONSIN USE TAX

Following are examples of fuel purchases subject to Wisconsin use tax if the Wisconsin motor vehicle fuel tax is refunded to you (list is not all-inclusive):

- Fuel used in real property construction, including road construction.
- Fuel used in well drilling.
- Fuel used in landscaping or logging.
- Fuel used in refuse, recycling, and waste handling equipment.
- Fuel used in golf carts and amusement rides.
- Fuel used in all-terrain vehicles. (**Note:** Fuel would be exempt if used in farming).

- Fuel for which a sales or use tax exemption certificate was issued by the purchaser to the seller but the fuel was used in a taxable manner (for example, fuel purchased without motor vehicle fuel tax for use in farming, but used instead in landscaping).

III. FUEL PURCHASES EXEMPT FROM WISCONSIN USE TAX

Following are examples of fuel purchases which are exempt from Wisconsin use tax even though you received a refund of Wisconsin motor vehicle fuel tax on such fuel purchases (list is not all-inclusive):

- Fuel consumed in machines and equipment used directly in manufacturing tangible personal property in Wisconsin.
- Fuel used in farming.
- Fuel for mobile mixing and processing units (for example, ready-mix units).
- Fuel used for heating a person's permanent principal residence. (This exemption does not include heating fuel used in motor homes, travel trailers, and recreational vehicles.)
- Fuel for rail freight or other rolling stock used in railroad operations.
- Fuel converted to electric energy, gas, or steam by utilities and fuel converted to steam for purposes of resale.
- Fuel purchased by a Wisconsin governmental agency or local unit of government, any public school, university or college in Wisconsin, and the federal government.
- Fuel purchased by nonprofit organizations that hold a Certificate of Exempt Status issued by the Wisconsin Department of Revenue.
- Fuel used in commercial vessels and barges of 50-ton burden or over which are primarily engaged in interstate or foreign commerce or commercial fishing.

- Fuel used in taxicabs.

IV. HOW TO COMPUTE USE TAX

The amount subject to Wisconsin use tax on purchases of motor vehicle fuel is computed as follows:

A. Selling price of motor fuel, (including shipping and handling)	\$ xxx
B. Less: Wisconsin motor vehicle fuel tax refunded	(xx)
C. Less: Federal motor fuel tax refunded	(xx)
D. Amount subject to use tax	\$ xxx

Example of Computing Use Tax

Facts: On January 3, 2005, Company ABC purchased 10,000 gallons of motor vehicle fuel and was invoiced as follows:

10,000 gallons	
@ \$1.50 per gallon	\$ 15,000
Wisconsin motor vehicle fuel tax	2,910
Federal motor fuel tax	2,440
Shipping	100
Total selling price	<u>\$ 20,450</u>

- Company ABC uses this motor fuel in machinery off the highway.
- On January 10, 2005, Company ABC filed a claim for refund for the \$2,910 of Wisconsin motor vehicle fuel tax it paid. The refund check of \$2,910 issued by the Department of Revenue was dated February 1, 2005.
- Company ABC also claimed a credit of \$2,440 on its 2005 federal income tax return for the federal motor fuel tax it paid. The federal income tax return was filed on March 15, 2006.

When was Wisconsin Use Tax Due? Company ABC's purchase of the motor fuel became subject to Wisconsin use tax on February 1, 2005 (that is, the date of the Wisconsin motor vehicle fuel tax refund check).

Computing the Tax: The amount subject to Wisconsin use tax is computed as follows:

Total selling price of motor fuel (including shipping and handling)	\$ 20,450
Less: Wisconsin motor vehicle fuel tax refunded	(2,910)
Federal motor fuel tax refunded	<u>(2,440)</u>
Amount subject to Wisconsin use tax	<u>\$ 15,100</u>

V. HOW TO REPORT WISCONSIN USE TAX

- If you are registered for sales or use tax, report Wisconsin use tax on your Wisconsin Sales and Use Tax Return (Form ST-12).
- If you are not registered for sales or use tax:
 - Individuals - Report use tax on either your Wisconsin individual income tax return or a Consumer Use Tax Return (Form UT-5).
 - Partnerships, corporations, and other entities - Report use tax on a Consumer Use Tax Return (Form UT-5).

Form UT-5 must be filed by the end of the month following the calendar quarter in which the fuel became subject to Wisconsin use tax. For example, if motor vehicle fuel became subject to use tax in January, 2006, the use tax would be reported on Form UT-5 for the calendar quarter ending March 31, 2006, which form must be filed by April 30, 2006.

You will avoid interest and penalties by paying use tax when due.

VI. ANY QUESTIONS?

If you have questions about reporting use tax or need reporting forms, please call (608) 266-2776, write to the Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949, or e-mail the department at sales10@dor.state.wi.us.

CAUTION

The information in this publication reflects the interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of March 1, 2006. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.